

**BEFORE THE  
SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
DOCKET NO. 2004-42-C**

**In the Matter of** )  
 )  
**Joint Petition for Arbitration of** )  
 )  
**NEWSOUTH COMMUNICATIONS CORP.,** )  
**NUVOX COMMUNICATIONS, INC.** )  
**KMC TELECOM V, INC., KMC TELECOM** )  
**III LLC, and XSPEDIUS COMMUNICATIONS,**)  
**LLC on Behalf of its Operating** )  
**Subsidiaries XSPEDIUS MANAGEMENT CO.** )  
**SWITCHED SERVICES, LLC, XSPEDIUS** )  
**MANAGEMENT CO. OF CHARLESTON, LLC,**)  
**XSPEDIUS MANAGEMENT CO. OF** )  
**COLUMBIA, LLC, XSPEDIUS** )  
**MANAGEMENT CO. OF GREENVILLE,** )  
**LLC, and XSPEDIUS MANAGEMENT CO.** )  
**OF SPARTANBURG, LLC** )  
 )  
**Of an Interconnection Agreement with** )  
**BellSouth Telecommunications, Inc.** )  
**Pursuant to Section 252(b) of the** )  
**Communications Act of 1934, as** )  
**Amended** )

**JOINT PETITIONERS' POSITION SUMMARY**

BellSouth has devoted a great deal of paper trying to convince this Commission that this Docket should not proceed as a joint arbitration. In the face of the common sense arguments favoring a joint arbitration, and despite Joint Petitioners' willingness to compromise in order to address BellSouth's procedural concerns, BellSouth continues to wage an unwarranted war against Joint Petitioners designed to tear them apart, put them at a substantive and procedural disadvantage, and drain their relatively limited resources. BellSouth spends most of its time mischaracterizing the Joint Petitioners' positions. However, no amount of spin can change the following facts supporting a Joint Arbitration:

- **Joint negotiations can (and do) legally result in joint arbitrations.** Joint Petitioners participated in joint negotiations with BellSouth from the beginning. The Act contemplates both joint negotiations and their logical result: joint arbitration petitions. There is no rational or legal basis to support BellSouth's request to break this proceeding into four separate and largely redundant ones.
- **One proceeding will be vastly more efficient than four.** Among the efficiencies and benefits that will result from having a single arbitration in lieu of four are: one procedural order; one issues matrix to track; one response to any BellSouth motions; one set of discovery to BellSouth; one response to any objections by BellSouth to such discovery; one hearing; one set of briefs; consolidated testimony submitted on behalf of witnesses for each of the Joint Petitioners, and one Arbitration Order.
- **There are only 6 issues that would not be repeated if this arbitration were split into four.** BellSouth's assertion that four separate proceedings would be "markedly smaller" ignores the fact that the vast majority of issues – almost 90 of the remaining 95 – would be repeated in multiple separate arbitrations with the same statutory deadline. Tracking four largely redundant sets of 90+ issues would be infinitely more difficult than deciding them once in a single proceeding.
- **Joint Petitioners have adopted a single position statement for each and every issue (satisfying the first of BellSouth's three requests for procedural requirements).** BellSouth's assertions about "what [Joint Petitioners] really mean" is simply not true. Joint Petitioners will continue to present a single position on each and every issue.
- **Joint Petitioners have agreed to cross-examine BellSouth's witnesses only once per issue (satisfying the second of BellSouth's three requests for procedural requirements).** Further, Joint Petitioners have proposed several options regarding BellSouth's cross of their witnesses and are willing to present their witnesses on panels, by company, or simply one-at-a-time.
- **BellSouth has made no reasonable assertion that it will be prejudiced by a Joint Proceeding.** Joint Petitioners will present consolidated testimony that allows multiple witnesses to adopt the same testimony in support of the CLEC position and allows each company's witness to testify with respect to company specific circumstances in support of the common CLEC position (satisfying in large part the third of BellSouth's three requests for procedural requirements) while maintaining the right of independent entities to provide testimony in support of positions commonly adopted by the Joint Petitioners. BellSouth's objections are purely makeweight.
- **Joint Petitioners would be unfairly and substantially prejudiced by grant of BellSouth's Motion.** BellSouth has presented no rational or legal argument in support of separating four CLECs that have presented BellSouth with an efficient means of negotiating with multiple parties and this Commission with an efficient means of arbitrating unresolved issues that arise from such joint negotiations.

BellSouth has also presented the Commission with a false choice: either grant the Motion to Sever or adopt those procedural requirements preferred by BellSouth. However, the Commission clearly has another choice (among others): deny BellSouth's Motion to Sever and instruct the parties to meet with the Executive Assistant to the Commissioners (or other Commission-designated person) in order to work toward a procedural schedule for this Docket that balances the interests of the parties and the Commission.

Respectfully submitted,

/S/

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